

IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:

DONALD EUGENE SALLEE II,
Debtor.

Case Number 14-46182-CER
Chapter 7

**Claim of Big A to Unclaimed Funds
and Objection to Application of
Ardmore Holdings**

Comes now Creditor Big A LLC ("Big A"), by and through its attorney, and makes claim to 66.67% of the unclaimed funds. Big A further objects to the *Application for Payment from Unclaimed Funds* and *Affidavit of Creditor* filed by Chris Janson on behalf of Ardmore Holdings LLC ("Ardmore") and moves this Court enter an order to distribute the funds to the various parties in such amounts as each may be entitled to receive. In support thereof, Big A states as follows:

- 1 As a preliminary matter, Big A objects to Mr. Janson's appearance in this case on behalf of Ardmore. A statutory entity may only appear and assert claims by and through a licensed attorney. This naturally results from the fact that Ardmore is a legal fiction and cannot appear in its own name; it must appear by some person. Appearing in court and asserting legal claims constitutes the practice of law and may only be done by a licensed attorney. *Rowland v. California Men's Colony*, 506 U.S. 194, 201-03 (1993); *Naylor Senior Citizen's House LP v. Sides Constr. Co. Inc.*, 423 S.W.3d 238, 243-46 (Mo. 2014). "A corporation, it is true, can appear only by attorney, while a natural person may appear for himself." *Osborn v. Bank of U.S.*, 22 U.S. 738, 830 (1824) (Marshall, C.J.).
- 2 In the fourth paragraph of his *Affidavit of Creditor*, Mr. Janson testifies that Ardmore has not "contracted with any other party." To the contrary, on September 23, 2013, Big A entered into a *Professional Service Agreement* with Paragon Partnership for the collection of this debt. A copy of the agreement is attached as Exhibit 3. Ardmore is the alter ego of Paragon Partnership.
- 3 Ardmore's claim originates from a judgment entered against the Debtor in *Excel Bank v. BB RE Properties LLC and Donald Sallee*, case number 11SL-CC03386, a copy of which is attached as Exhibit 2.

- 4 Excel Bank sold its judgment to Big A, who filed an assignment in the case on October 5, 2012. A copy of Excel Bank's assignment to Big A is attached as Exhibit 3.
- 5 Pursuant to Big A's agreement with Paragon Partnership, Paragon Partnership is entitled to a success fee of 33.33% of the recovered amounts.
- 6 Paragon Partnership was run by Mr. Janson and Amber Giessmann.
- 7 On February 19, 2014, Ms. Giessmann sent to Big A's counsel an e-mail suggesting that Big A assign its judgment to a holding company owned by Paragon Partnership. Big A assigned its judgment to Ardmore and sent a copy via e-mail the next day. A copy of these e-mails together with all attachments are included in Exhibit 4.
- 8 Big A terminated all of its other agreements with Paragon Partnership on November 16, 2015, but never terminated its agreement with respect to the Debtor. Big A subsequently terminated its agreement with respect to this Debtor on January 18, 2017. A copy of the letter of termination is included as Exhibit 5.
- 9 Big A does not dispute that pursuant to the terms of the *Professional Services Agreement*, Ardmore is entitled to receive 33.33% of the funds held by this Court, subject to any claims held by other parties. Big A is entitled to remainder of the funds.

Wherefore, Big A prays this Court distribute the sum of \$6,586.81 (representing 66.67% of \$9,879.72) to Big A and remainder to the other interested parties as each may be entitled. Big A prays for any such further relief as this Court deems fair and just.

/s/ Stanley Brian Cox

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I hereby certify that a copy of the above and foregoing instrument was served this 26th day of January, 2017, upon all the attorneys of record of all parties to the above captioned case via the CM/ECF system and by mailing to:

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/s/ Stanley Brian Cox

Stanley Brian Cox